

SUMMARY

By this Amendment, claims 1-6, 9-11, and 13-20 will have been amended; claims 7-8, 10, 12, and 21-57 will have been canceled, and claims 58-59 will remain withdrawn under a restriction requirement. Claims 1-6, 9-11, and 13-20 will remain pending in this application.

REMARKS

Claims 22-57 were rejected under both 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement and 35 U.S.C. § 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,368,194 to *Oliff* and further in view of U.S. Patent No. 3,356,279 to *Root*.

Claim Rejections Under 35 U.S.C. § 112:

Claims 22-57 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Claims 22-57 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant traverses these rejections. Applicant avers that one of ordinary skill in the art would be able to make the carton detailed in claims 22-57 and described in the specification and would understand the terms “existing end,” “top panel,” “side panel,” etc with the specification as a guide to be apprised of the scope of the invention claimed. However, to expedite prosecution, claims 22-57 have been canceled by the instant Amendment. Accordingly, these rejections are moot.

Claim Rejections Under 35 U.S.C. § 103:

Claims 1-57 were rejected under 35 U.S.C. § 103 as being unpatentable over to *Oliff et al.* in view of *Root*. Applicant respectfully traverses this rejection.

The Examiner relies on *Oloff* to disclose most elements of the claims, but states that *Oloff* does not “disclose the removable portion to be adjacent to said first end so as to define a roll-out aperture for article removal when the carton is lying on said first end panel combination.” The Examiner then relies on *Root* to disclose the removable portion as claimed. Independent claims 1 and 13 have been amended to include that the first side includes “a stop wall, the stop wall including a hinged flap defined at least partially by two cuts extending to respective cut ends that are intersected by respective transverse lines that prevent the cuts from extending beyond their intended length.” Since neither *Oloff*, *Root*, nor any combination thereof, discloses claims 1 or 13, rejections based thereon should be removed as overcome.

Although the dependent claims were also rejected as obvious over *Oloff* in view of *Root*, since independent claims 1 and 13, from which these claims depend, have been amended to define over the cited art, each of these dependent claims are also patentable. Accordingly, the dependent claims are allowable on their own merits and as inheriting the patentable characteristics of their respective independent claims.

Actions In Related Applications:

Applicant directs the Examiner’s attention to the following applications that may be of interest to prosecution of the present application:

- 11/533,492 Pending USPTO Continuation Application before Examiner Michael Collins - claims were rejected under 35 U.S.C. § 102 as being anticipated by *Schauer* (US Patent No. 3,300,115)
- 2004-527010 Pending Japanese Application before Examiner Kazuo Sekiya - claims rejected as unpatentable over Jpn. PCT National Publication No. 9-502147 (the Japanese equivalent application of *Oloff*), WO 2002/14166, *Schauer*, and *Chirchiglia* (U.S. Patent No. 2,928,539)

- 03784240.8 Pending European Application before Examiner Johann Fitterer - claims rejected as lacking inventive step over *Pawlowski et al.* (U.S. Patent No. 4,170,325) in one office action and then over *Chirchiglia* in another office action
- 2003255741 Pending Australian Application before Examiner A. ALI - claims rejected as lacking inventive step over either *Oliff* alone or over *Oliff* in combination with *Schauer*, WO 2002/014166, or *Chirchiglia*; the Australian action also cites as "highly relevant" the following two items: GB 2268159 and *LeDrew* (U.S. Patent No. 4,493,453)

Applicants believe that the present claims are not anticipated or rendered obvious by any known items, including the items cited in the above referenced related applications. For example, none of these references teach or suggest "the first side including a stop wall, the stop wall including a hinged flap defined at least partially by two cuts extending to respective cut ends that are intersected by respective transverse lines that prevent the cuts from extending beyond their intended length" as presently claimed.

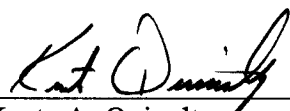
CONCLUSION

Claims 1-6, 9-11, and 13-20 are thus allowable and Applicant requests an indication of such in the application.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 09-0528.

Respectfully submitted,

11/12/07
Date


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